

August 10, 2023

Mr. Casey Sixkiller
Regional Administrator
US Environmental Protection Agency
Region 10
1200 6th Ave, Suite 155
Seattle, WA 98101

Dear Regional Administrator Sixkiller:

On behalf of The Northwest Seaport Alliance (NWSA), thank you for the opportunity to comment on the US Environmental Protection Agency's Proposed Plan for the East Waterway Operable Unit remedial action.

The NWSA is the marine cargo operating partnership between the ports of Seattle and Tacoma and is one of the largest container gateways in the United States. Marine cargo activity at NWSA facilities supports over 58,000 jobs and drives \$12.4 billion in economic activity in Washington state. The cleanup directly affects the NWSA because the East Waterway is the shipping channel that serves NWSA's Terminal 30 and Terminal 18, the largest container terminal in the Pacific Northwest.

The NWSA supports the EPA's objective of reducing contaminants in the East Waterway to the maximum extent practical, and we support the cleanup alternative that EPA has selected. Yet we do not support the concept of an interim process to achieve these ends. The NWSA has long planned to deepen the East Waterway to enable Terminal 18 to serve larger vessels and preserve the long-term economic competitiveness of the Puget Sound trade gateway. EPA's decision to proceed with the proposed plan under an interim record of decision (ROD) instead of a final ROD is likely to kill the deepening project, which will have significant implications for the US and Pacific Northwest economies.

EPA must implement a solution that enables the deepening project to proceed as soon as possible. In addition to issuing a final ROD, to achieve these ends the EPA also should engage with the US Army Corps of Engineers (USACE) to develop and execute a plan that allows the cleanup and deepening to happen concurrently.

In the pages that follow, we have provided more details on the NWSA's position on these issues. We hope you will consider our comments as the EPA continues its work in the East Waterway.

Sincerely,



John Wolfe
Chief Executive Officer

A Final ROD Will Achieve the Best Cleanup Possible and Unlock the Waterway's Economic Potential

Because EPA has already selected a remedy that will achieve the most extensive cleanup that is possible, it is appropriate for implementation of this remedy to be considered a final action. EPA's current proposal, which delays a final cleanup decision and the subsequent channel deepening, will not result in a cleaner waterway. A final ROD will deliver the same environmental and public health benefits as an interim ROD—and exactly the same cleanup actions—while eliminating uncertainty and the potential for cleanup action to be prolonged indefinitely.

A final ROD also is the most direct path to ensuring the East Waterway deepening project can proceed. A thorough cleanup and final ROD will allow the community and potentially responsible parties to close this chapter of superfund activity in Seattle and unlock new economic development opportunities on the working waterfront.

EPA's Decision to Issue an Interim ROD is Incompatible with the USACE Process for Channel Deepening

An interim action with no clear resolution date threatens to indefinitely delay the planned East Waterway deepening project, and very possibly permanently foreclose the possibility. In 2018, Congress authorized the [Seattle Harbor Navigation Improvement Project](#) (SHNIP), enabling USACE to deepen both the east and west waterways in the Seattle Harbor to -57 ft MLLW. USACE's position is that the deepening project cannot proceed under an interim cleanup.

The SHNIP is extremely important to maintain our Seattle terminals' competitiveness among other North American ports. Yet USACE has indicated they will not move forward with deepening the East Waterway if the EPA proceeds with an interim cleanup action. USACE requires a final remedy, but we do not see a path to achieving the final decision that USACE requires. After extensive monitoring that EPA has indicated will take decades, the decision-making process for transitioning to a final record of decision is likely to be protracted. The only metric or standard EPA has thus far suggested that might bring the cleanup effort to closure is "non-urban background" or "natural background." Natural background is not possible to achieve in this urban, industrial environment, which is subject to inputs from the upstream Duwamish and Green Rivers, which in turn receive urban runoff from the entire Kent Valley, Tukwila, and South and Central Seattle. Nearly all contaminated sediments that can be removed will be removed in the proposed cleanup plan; there is no additional remedial action that could achieve a better outcome.

The NWSA and, by extension, the Washington state economy needs certainty about when the deepening of the East Waterway can begin. Harbor Island's Terminal 18 accounts for around 45% of the Seattle Harbor's cargo volumes, which overall support \$2,157,000,000 in business activity and 6,960 direct jobs. We operate in a very competitive environment. In order to maintain Terminal 18 as a top-tier shipping destination in North America, we must be able to tell ocean carriers when newer vessels will be able to access the terminal.

Economic & Environmental Benefits of East Waterway Deepening

Before Congress approved the SHNIP in 2018, USACE completed an extensive environmental analysis and feasibility report. According to the report, the deepening projects in the east and west waterways are expected to reduce transportation costs for shippers by an average of \$79 million each year, outweighing the cost of the project by a ratio of 6.3. In addition, as will be discussed in more detail

below, the SHNIP will result in even greater benefits by supporting the long-term viability of Terminal 18.

The project will result in environmental benefits as well: When newer, larger ships are able to access the NWSA's Seattle terminals, ocean carriers will be able to make fewer trips to move growing cargo volumes, reducing potential negative impacts on endangered Southern Resident killer whales. The USACE's feasibility report projects that the same amount of cargo can be moved with 10% fewer vessel calls after the deepening project is complete, while achieving the economic benefits described above. The large ships being built today are also becoming more fuel efficient, equipped with technology to reduce greenhouse gas emissions. Over the first 14 years after the SHNIP is completed, transportation efficiencies will result in emissions reduction of 143 metric tons of diesel particulate matter and 23.5 million metric tons of greenhouse gases. The newer, larger ships also are much more likely to be shore power-capable, meaning they can plug into the City of Seattle's clean electric grid while at berth, and they are the vessels that are likely to be the first to be capable of running on alternative, cleaner fuels. Enabling the NWSA to receive calls from these vessels will help reduce seaport-related emissions overall.

Additionally, dredging the East Waterway deeper than required for the CERCLA cleanup can only make the remaining sediments cleaner, advancing EPA's human and environmental health goals. It is worth noting that sediment removed during a federal deepening project is tested and evaluated for appropriate disposal in accordance with the Dredged Material Management Program, jointly overseen by USACE, EPA Region 10, Washington Department of Natural Resources, and Washington Department of Ecology.

The NWSA Must Be Big Ship Ready

The economic costs of failing to deepen the East Waterway go well beyond merely not realizing the benefits described above. If we are unable to deepen the waterway, it is not likely that the primary vessel service strings of the world's top ocean carriers will continue to call at Terminal 18, our highest-volume terminal. This would have implications for NWSA's ability to remain a top-tier trade gateway and threaten the more than 58,000 jobs that depend on the NWSA.

A trend in the shipping industry is the rapid growth in the size of container vessels. Today, the NWSA receives regular calls from vessels with capacities of up to 15,000 TEUs (twenty-foot equivalent unit containers), more than twice the capacity of the average sized vessel that called our ports just ten years ago. Ocean carriers are continuing to emphasize economies of scale and increasingly are only calling at ports that are able to effectively handle these larger ships. Channels that are too shallow are a competitive disadvantage because they often require ocean carriers to delay arrivals or accelerate departures or to carry less cargo to sit higher in the water and achieve the under-keel clearance that is needed to transit safely.

The carriers' first and last calls on a service string are especially important because they are the stops that involve the greatest volumes of cargo discharge/loading and therefore need the deepest drafts. Because of the higher cargo volumes, attracting more first and last call services is a key strategy in the NWSA's effort to grow economic opportunities for our region and nation.

Terminal 18 is one of NWSA's four "strategic terminals." Our strategic terminals are the marine cargo facilities that will receive the most focused investments needed to modernize and increase capacity. We view them as the cornerstones of our future competitiveness. Of these terminals, Terminal 18 is NWSA's

largest terminal, has the highest volume, and is the only one with three berths. Significant investments already have been made at the terminal and more are in the works:

- The terminal operator at Terminal 18 installed cranes capable of serving the largest vessels expected to call at North American ports.
- The Port of Seattle invested \$47 million in improvements on the dock to support these larger cranes.
- An estimated \$69 million in dock restorations are planned for the next five years.
- Design is underway on a project to install shore power so that vessels can plug in while at berth.
- In the next five years the NWSA will begin design to deepen the berths to align with the authorized channel deepening and to build toe walls to support the deeper berths.

The value of these improvements will only be fully realized if the federal channel is deepened, which cannot occur until a final (not interim) ROD is implemented. And under an interim decision the deepening project might never happen. Tidal restrictions and other navigation challenges related to shallow channels are a major disincentive to attracting larger vessels and increasing ocean carrier services, especially when other ports nearby can offer alternatives without depth limitations.

The NWSA competes not only with other US ports but with the ports of Vancouver and Prince Rupert on Canada's West Coast. Over 50% of import cargo moving through the NWSA is discretionary, meaning that its final destination is not a Northwest state but the Midwest or beyond. This discretionary cargo has been aggressively targeted by ports in Canada: Since 2007, the NWSA has lost about 20% of its market share of containerized cargo to Vancouver and Prince Rupert. Aided by millions of dollars in infrastructure investments by the Canadian government, these two ports have developed highly competitive marine cargo facilities served by Class 1 railroads that have in turn made major investments specifically to attract Asian cargo bound for the US interior.

When we lose cargo to non-US ports, the US loses family wage jobs associated with that cargo. And continued cargo diversion could have devastating consequences for the Pacific Northwest economy beyond just transportation jobs. Exporters, particularly in the agricultural sectors in Washington, Oregon, Idaho, and Montana, cannot economically ship their goods via any West Coast port but instead depend on the NWSA to access international markets. When our gateway becomes less competitive for imports, fewer and less predictable ship calls reduce opportunities for exporters to participate in the global economy. Fewer imports also results in fewer available containers for exporters to fill with products destined overseas.

Failure to deepen the East Waterway would undermine our strategy for remaining competitive and maintaining a world-class trade gateway in the Pacific Northwest and would threaten the more than 58,000 transportation-related jobs that depend on the NWSA.

Potential Solutions the EPA Should Consider

In order to meet the region's cleanup responsibility under CERCLA and unlock the economic growth contingent on a deepened East Waterway, **the NWSA strongly encourages EPA to adopt a cleanup plan that allows the deepening project to be completed as soon as possible.** Steps the EPA should take include:

- The EPA should issue a final ROD and undertake a final cleanup action, not an interim action: Because USACE says the deepening project cannot proceed under an interim ROD, and because an interim ROD is unlikely to lead to a final cleanup in the foreseeable future, an interim ROD threatens to kill the deepening project.

A final ROD is the most direct path to ensuring the East Waterway deepening project will happen. Under a final decision, USACE will be able to plan design and construction of the deepening project around the cleanup process. A final ROD will provide a degree of certainty that the deepening project can proceed. It will send a signal to global shipping companies that Terminal 18 will remain a top-tier marine terminal and that the Puget Sound trade gateway is worth their continued investment.

It is worth noting again that EPA's current proposal, which delays a final cleanup decision and the subsequent channel deepening, will not result in a cleaner waterway. Whether EPA adopts a final or an interim plan, the cleanup action the EPA has proposed is exactly the same.

- Coordinate with USACE so that the cleanup and deepening can happen concurrently: Even if EPA issues a final ROD, completing the cleanup still could take more than ten years, meaning the deepening project will not happen as soon as it is needed. Today, ships requiring depths of greater than 55 feet to transit to and from berths without restrictions already are calling at the NWSA. Depth limitations in the East Waterway are affecting our ability to sufficiently accommodate these vessels at Terminal 18.

The two federal agencies should work together to produce a plan that allows deepening to begin before the cleanup is completed and before monitoring begins. Ideally, the two efforts can be concurrent: As sediment is removed to depths required for the cleanup, deepening would proceed under the same mobilization. USACE has expressed concerns that deepening the waterway before the cleanup is completed could create liability for the Corps and the federal government. EPA should work with USACE to resolve that concern and any other obstacles to coordinated action that might exist.

- Complete the cleanup as soon as possible: Assuming the EPA and USACE can propose a solution to allow deepening project construction to happen before a final cleanup is completed, deepening of a given section of the waterway still cannot proceed until sediments associated with the cleanup have been removed. Delays to the cleanup will delay deepening. We request that EPA develop approaches to expediting the cleanup.